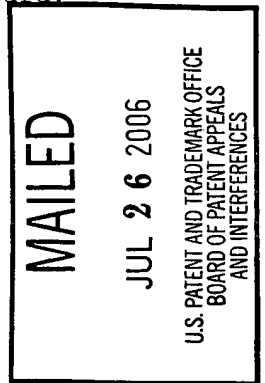


The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES



**Ex parte** SUSANN MARIE KEOHANE AND JOHNNY MENG-HAN SHIEH

Application No. 09/998,396

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences (BPAI) on July 22, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are outlined below:

**APPEAL BRIEF**

Appellants filed their Appeal Brief received by the USPTO via facsimile on September 26, 2005 using the format set forth in 37 CFR § 1.192. However, 37 CFR § 1.192 was abolished on September 13, 2004, and replaced with 37 CFR § 41.37. A new Appeal Brief in compliance with 37 CFR § 41.37 is required. In

addition, the following deficiencies also need to be addressed:

1) The content under the heading "Summary of the Invention" contained in the Appeal Brief does not meet the requirements of 37 CFR § 41.37(c)(1)(v) which states

A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. [§] 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

2) Also, the content listed under the heading "Issues" (which should be labeled --Grounds of Rejection to be Reviewed on Appeal--), fails to supply a concise statement of each ground of rejection presented for review.

3) Further, the Appeal Brief lacks two required sections: "Evidence Appendix," as set forth in 37 CFR § 41.37(c)(1)(ix); and "Related Proceedings Appendix," as set forth in 37 CFR § 41.37(c)(1)(x).

Application No. 09/998,396

**EXAMINER'S ANSWER**

The Examiner's Answer mailed November 21, 2005, does not contain the reference evidence applied in the rejections on appeal under the "**(8) Evidence Relied Upon.**" See the Manual of Patent Examining Procedure (MPEP) § 1207.02(A)(8).

Accordingly, it is

**ORDERED** that the application is returned to the Examiner:

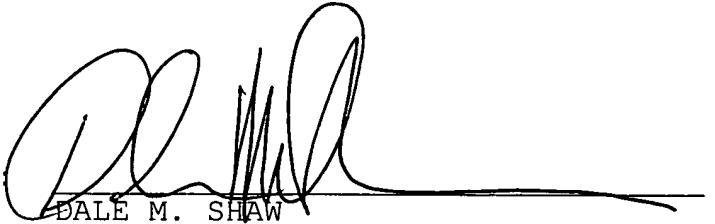
- 1) to have Appellants submit a revised Appeal Brief that complies with the headings and content as outlined in 37 CFR § 41.37(c), and to note the corrections indicated above with respect to 37 CFR § 41.37(c)(1)(v) and 37 CFR § 41.37(c)(1)(vi);
- 2) to also include in the revised Appeal Brief the missing appendices in accordance with 37 CFR § 41.37(c)(1)(ix) and 37 CFR § 41.37(c)(1)(x);
- 3) to issue a corrected Examiner's Answer that complies with the requirements of the heading "**Evidence Relied Upon**" by listing all of the references applied in the rejections on appeal; and

Application No. 09/998,396

4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By

A handwritten signature in black ink, appearing to read 'DALE M. SHAW', written over a horizontal line.

DALE M. SHAW  
Program and Resource Administrator  
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Mr. Volel Emile  
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DMS:hh